



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,326	09/25/2001	Arie Cornelis Besemer	019219-013	9428

21839 7590 07/12/2005

BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
----------	--------------

3761

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/937,326

Applicant(s)

BESEMER ET AL.

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5 and 8-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5 and 8-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 13 April 2005 have been fully considered but they are not persuasive.

In response to the applicant's argument that Hansen never specifically discloses the combination of superabsorbent particles and gluconolactone, it is noted that Hansen discloses the possibility of this combination even though the combination is not explicitly described. Hansen teaches in column 50, lines 9-24, that two different particles may be adhered to the same fiber, and gives as an example the combination of superabsorbent and an antimicrobial. While Hansen offers this combination as an example, the use of an example does not limit Hansen's disclosure to this example alone. The Applicant's statement that only superabsorbent and antimicrobials are taught by Hansen to be combined together is incorrect. Hansen clearly discloses any of the particles described as suitable may be combined together. While not every possible combination is described as an example by Hansen, the combinations are nonetheless supported by his disclosure. Therefore, the combination of superabsorbent and gluconolactone is disclosed by Hansen, and Hansen anticipates the limitations of the claim.

In response to the applicant's argument that a list of items is not a disclosure of a specific item being added, it is noted that Hansen discloses the items listed in Table II as being suitable to be added. Hansen clearly names gluconolactone in Table II, and therefore positively discloses the use of gluconolactone, despite the number of other

compounds listed. While selection of a binder for gluconolactone may be difficult, as the applicant alleges, Hansen does clearly teach gluconolactone as a compound to be bound to fibers.

In response to the applicant's argument that Hansen fails to disclose a disposable diaper comprising a superabsorbent material containing gluconolactone, it is noted that Hansen describes in column 49, line 5 to column 50, line 24, and specifically in column 50, line 13-14, an absorbent pad in general, and only later describes one use of the absorbent pad as in a wound dressing.

In response to the applicant's argument that Hansen does not anticipate the claimed amount of gluconolactone with respect to the amount of superabsorbent, it is noted that the range determined based on the teaching of Hansen described on Page 6 of the Remarks dated 13 April 2005 includes the claimed range, and therefore Hansen discloses the claimed amount of gluconolactone.

For these reasons, the rejection stands.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 2-5 and 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Hansen et al. (6,521,087).

Hansen discloses a superabsorbent material comprising superabsorbent particles. A non-acidic compound consisting of gluconolactone (column 19, table 2) is bonded to the surface of the superabsorbent particles (figures 10 and 11; column 3, lines 46-48). Hansen discloses the superabsorbent material can be used in hygiene products such as diapers (figure 8). Hansen discloses the non-acidic compound is present in the weight percent of 0.5-80% of the total weight of the fibers and superabsorbent material. Hansen further discloses the superabsorbent material is 3-80% by weight of the pulp fibers and particulate material. The percent of non-acidic compound would therefore be between 1-20% of the superabsorbent material (column 20, line 66 through column 21, line 5).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3761

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WA
cla
June 30, 2005

TATYANA ZALUKAEVA
PRIMARY EXAMINER

